

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL C. STERNBERG,

Plaintiff,

v.

SHELLEY WARNECK, et al.,

Defendants.

Case No. 2:23-cv-01466-APG-EJY

ORDER

Pending before the Court is the Motion for Order to Pay Service Costs Pursuant to FRCP 4(d)(2) filed by Plaintiff on January 9, 2024. ECF No. 32. In his Motion, Plaintiff explains he complied with Federal Rules of Civil Procedure 4(d) seeking waiver of service from all Defendants. Plaintiff states he used the templates in the Rule, provided the correct number of copies, and pre-paid envelopes. Defendants Tristan Aeschleman, Adames and Ash LLP, and Shelly Warneck all waived service. ECF Nos. 21, 22, 23. Several other Defendants were served summonses (ECF Nos. 43, 44, 45). Plaintiff seeks costs for service only from Jeff Rosen, the Santa Clara County, California, District Attorney, who apparently did not respond to the waiver of service.

Plaintiff cites federal law from the First Circuit and California Civil Procedure supporting the conclusion that Plaintiff's attempt to obtain a waiver of service from Mr. Rosen was properly sought. Plaintiff also provides a Certificate of Service stating that he emailed and mailed a copy of his Motion for Order to Pay Service Costs to Jeff Rosen at jrosen@dao.sccgov.org and 70 W. Hedding Street, West Wing, San Jose, CA 95110. No response to the Motion was filed by Mr. Rosen or his office.

Under United States District Court for the District of Nevada Local Rule 7-2(d), the Court may treat the failure of an opposing party to respond to a motion as consent to grant the motion. The Court grants Plaintiff's Motion, but reduces the cost by the unenumerated \$10.00 for supplies and \$6.50 for two lattes.

1 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Order to Pay Service
2 Costs Pursuant to FRCP 4(d)(2) (ECF No. 32) is GRANTED.

3 IT IS FURTHER ORDERED that Jeff Rosen shall pay Plaintiff for service costs in the
4 amount of \$92.16, within 30 days of the date of this Order unless an objection or motion seeking
5 reconsideration is filed.

6 IT IS FURTHER ORDERED that Plaintiff must email and mail a copy of this Order to Mr.
7 Rosen as follows: (1) to Mr. Rosen's email address identified in Plaintiff's Motion; and (2) by U.S.
8 Certified Mail, Return Receipt Requested to Mr. Rosen's physical office address.

9 IT IS FURTHER ORDERED that Plaintiff must file a notice of compliance with the Court
10 that he has emailed and mailed a copy of this Order to Mr. Rosen no later than **February 9, 2024**.

11 Dated this 31st day of January, 2024.

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14 ELAYNA J. YOUCHAH
15 UNITED STATES MAGISTRATE JUDGE
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